	CAUSE NO. 5 1010 21 0	
DAVID GARCIA,	§	IN THE DISTRICT COURT
Plaintiff	§ §	
VS.	\$ 8	DISTRICT COURT
DONNA INDEPENDENT SCHOOL DISTRICT	§ 8	
Defendant	§ HII	DALGO COUNTY, TEXAS

CALISE NO C-1513-21-G

PLAINTIFF'S ORIGINAL PETITION

Plaintiff David Garcia files this Original Petition against Defendant Donna Independent School District (Donna ISD). In support, David Garcia shows as follows:

PARTIES

- 1. Plaintiff is an individual and resident of the State of Texas.
- 2. Defendant Donna Independent School District (Donna ISD) is a School District located in Hidalgo County, Texas, and may be served with process through and by serving:

Dr. Hafedh Azaiez, Superintendent Donna Independent School District 904 Hester Ave., Donna, Tx. 78537

VENUE AND JURISDICTION

- 3. Venue is proper in Hidalgo County, Texas, and in that, all or a substantial part of the events or omissions giving rise to this cause of action occurred in the Hidalgo County, Texas. Moreover, venue is proper in the Hidalgo County, Texas, in that Defendant is located in Hidalgo County.
- 4. Plaintiff's claims exceed the minimal jurisdictional limits of this Court.

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PROCEDURAL STATEMENT

5. Plaintiff filed his Charge of Discrimination within 300 days of the adverse employment action asserted in this lawsuit. Plaintiff was issued a Notice of Right to File a Civil Action pursuant to the Texas Commission on Human Rights (TWC-CRD) and the EEOC. Plaintiff files his Original Petition within 60 days of receipt of Texas Commission on Human Rights (TWC-CRD) right to sue and within 90 days of receipt of the EEOC Notice of Right to File Civil Action.

MISNOMER/MISIDENTIFICATION

6. In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer" and/or such parties are/were "alter egos" of parties named herein.

RESPONDEAT SUPERIOR

- 7. Employees involved in this cause of action were, at all times described herein, employees and vice-principals of defendant(s) and were at all times acting in the course and scope of that employment. Accordingly, defendant(s) are liable for such conduct under the doctrine of Respondent Superior.
- 8. At all times relevant to this lawsuit, Defendants, its agents and employees, were aware of the acts and omissions alleged herein, and through its authorized employees, agents, officers, executives, or representatives, knowingly formulated, participated in, and/or approved the wrongful and illegal conduct complained of herein.

FACTUAL BACKGROUND

9. Plaintiff is a thirty-seven-year-old Hispanic male born in Mexico City, Mexico.

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- 10. Defendant hired Plaintiff in August of 2017 as a teacher on probationary status for the 2017-18 school term to teach elementary school fourth grade students. At the time of hire, Plaintiff had a Bachelor of Psychology Degree and had begun working on his Master's Degree in School Administration for approximately on or about Fall of 2014.
- 11. Soon after the 2017 Fall semester began, Plaintiff was re-assigned to teaching first grade children due to the insufficient number of children to support the fourth-grade class.
- 12. Plaintiff performed his teaching duties with care, dedication and effort. Maria Gomez was Plaintiff's Principal at the time of Plaintiff's hire and for most of the 2017-18 school term until being dismissed before the end of the 2017-18 school term. Plaintiff had outstanding performance evaluations for the 2017-18 school term.
- 13. Defendant employed Plaintiff for the 2018-19 school term as Pre-K Teacher for four-year-old children. Crystal Garza was Plaintiff's Principal for the 2018-19 school term. Plaintiff had positive written performance evaluations for the 2018-19 school term.
- 14. Defendant employed Plaintiff for the 2019-20 school term as Pre-K Teacher for four-year-old children. Maria Partida was Plaintiff's Principal for the 2019-20 school term. Plaintiff's working conditions immediately changed. During a faculty meeting at the beginning of the 2019-20 school term, Principal Partida made a statement that she believed that 'there were too many male teachers. Defendant began excessively monitoring Plaintiff. Females and native-born Hispanics were treated differently including not being excessively monitored. Examples would be Maria Cardona, and Maria Ortiz. Defendant relocated the male Assistant Principal, Mr. Flores, into a smaller office and placed a female, Ms. Epperson, into Mr. Flores' former office.

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- 15. Principal Partida recommended not continuing Plaintiff's employment and that Plaintiff's employment be ended / terminated at the end of the Spring 2020 Semester. Principal Partida's recommendation became effective / was adopted and Plaintiff's employment was ended on or about June 2020.
- **16.** Principal Partida alleged Plaintiff's employment be terminated because of Plaintiff's poor performance.
- 17. Defendant had performed substantial audits of Plaintiff's teaching since hiring Plaintiff in 2017. Defendant performed four walkthrough audits of Plaintiff teaching his class in Plaintiff first year; , three walkthrough class audits in Plaintiff's second year; and ten walkthrough audits of Plaintiff teaching class in Plaintiff's third year, Principal Partida's 2019-20 school term. In Plaintiff's third and last year of employment, a Consultant from Region One Dora Contreras conducted over twenty-two (22) audits of Plaintiff teaching class. The Consultant from Region One went to Plaintiff's classroom to observe Plaintiff teaching three times per week from December 2019 to March 2020.
- 18. Plaintiff was never counseled or given any notice of issues with Plaintiff's teaching nor was

 Plaintiff ever given a plan for improvement from the special Consultant or from any other
 administrator.
- 19. Plaintiff engaged in protected conduct --- protesting and opposing the discrimination against him.

CAUSE OF ACTION

VIOLATION OF CHAPTER 21 OF THE TEXAS LABOR CODE Sec. 21 et seq.

20. Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.

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- 21. Defendant violated Plaintiff's rights under Tex.Lab.Code Sec. 21 et seq. by discharging and otherwise discriminating against him on the basis of his gender (male) with respect to his compensation, terms, conditions, and privileges of employment; and by limiting, segregating, and classifying him in a way which deprived or tended to deprive him of employment opportunities or adversely affected his status as an employee because of his age.
- 22. Plaintiff was a male and a member of a protected class.
- 23. Plaintiff remained, at all times, qualified for the job he held while employed by Defendant.

 Plaintiff diligently performed the requirements of his job while employed by Defendants.
- 24. Defendant discriminated against Plaintiff. Plaintiff's gender (male) was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Tex.Lab.Code Sec. 21.
- **25.** <u>In the alternative</u>: Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.
- 26. Plaintiff was born in Mexico. Principal Partida was born in Texas / United States.
- 27. Defendant discriminated against Plaintiff. Plaintiff's national origin (Hispanic born in Mexico) was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Tex.Lab.Code Sec. 21.
- 28. <u>In the alternative</u>: Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.
- 29. Defendant retaliated against Plaintiff. Plaintiff's engaging in protected conduct was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Tex.Lab.Code Sec. 21.

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VIOLATION OF 42 U.S.C. Sec. 2000 et seq. aka Title VII

- 30. Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.
- 31. Defendant violated Plaintiff's rights under 42 U.S.C. sec. 2000 et seq. by discharging and otherwise discriminating against him on the basis of his gender (male) with respect to his compensation, terms, conditions, and privileges of employment; and by limiting, segregating, and classifying him in a way which deprived or tended to deprive him of employment opportunities or adversely affected his status as an employee because of his age.
- 32. Plaintiff was a male and a member of a protected class.
- 33. Plaintiff remained, at all times, qualified for the job he held while employed by Defendant.

 Plaintiff diligently performed the requirements of his job while employed by Defendants.
- 34. Defendant discriminated against Plaintiff. Plaintiff's gender (male) was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Title VII.
- **35.** <u>In the alternative</u>: Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.
- 36. Plaintiff was born in Mexico. Principal Partida was born in Texas / United States.
- 37. Defendant discriminated against Plaintiff. Plaintiff's national origin (Hispanic born in Mexico) was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Title VII.
- **38.** <u>In the alternative</u>: Plaintiff reasserts and incorporates by reference all of the above numbered paragraphs.

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39. Defendant retaliated against Plaintiff. Plaintiff's engaging in protected conduct was a motivating factor in the decision to end Plaintiff's employment. Plaintiff suffered damages as a result of Defendant' violations of Title VII.

JURY DEMAND

40. Plaintiff demands a jury trial and hereby tenders the required fee.

PRAYER

- **41.** For these reasons, Plaintiff prays that this Court enter a judgment in his favor and against Defendants for the following:
 - a. Actual damages;
 - b. Compensatory damages
 - c. Exemplary damages;
 - d. Lost back wages;
 - e. Reinstatement or Lost future wages in lieu of reinstatement;
 - f. Reasonable attorneys' fees, including expert witness fees;
 - g. Pre-judgment and post-judgment interest;
 - h. Costs of court; and
 - i. All further legal and equitable relief to which Plaintiff may be entitled.

CONCLUSION

WHEREFORE, Plaintiff prays that Defendant be cited to appear and answer herein and for all the relief requested above and that upon final hearing hereof, a judgment be rendered for Plaintiff and against Defendant, for the damages set out above in the amount deemed reasonable under the circumstances, along with attorneys' fees, costs of court, pre-judgment interest, post-judgment interest and for such other and further relief to which Plaintiff may show himself justly entitled.

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Respectfully Submitted,

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